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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

OA No.385 of 2007  
Cuttack, this the 09th day of January, 2009

Premal Panda & Anrs .... Applicant  
Versus  
Union of India & Ors. .... Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not?
2. Whether it be circulated to all the Benches of the CAT or not?

(C.R. MOHAPATRA)  
MEMBER (ADMN.)

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C O R A M:

THE HON'BLE MR. C.R.MOHAPATRA, MEMBER (A)

1. Premal Panda, aged about 57 years son of Late Ugrasen Panda, Resident of Village-Baijamunda, PO. A.Kantapali, PS. Burla, Dist. Sambalpur.
2. Krushna Chandra Nayak, aged about 57 years, son of Late Jhantu Nayak, resident of At. Bulanda, PO. Maneswar, PS. Dhama, Dist. Sambalpur.
3. Udekar Pande aged about 56 years, son of Shri Mahadev Pande, Resident of At-Khunti, PO. Butemura, PS. Dhama, Dist. Sambalpur.

.....Applicants

By Advocate :M/s.Aditya Kumar Mohapatra, S.K.Jena.

- Versus -

1. Union of India represented through Secretary, Department of Animal Husbandry, Diary and Fisheries, Ministry of Agriculture, New Delhi.
2. Director, Central Institute of Fisheries Technology (CIFT), Wellingdon Island, Matsyapuri Coast, Cochin-682 029, Kerala.
3. Scientist in charge, Burla Research Centre of CIFT, At/Po. Burla, Dist. Sambalpur.
4. Chairman Closure Committee, Burla Research Centre of CIFT, At/Po.Burla, Dist. Sambalpur.
5. Director General, Indian Council of Agricultural Research, At/Po. Krishi Anusandhan Bhawan-II, Pusa Complex, New Delhi-110 012.
6. The Director, Central Institute of Fisheries and Aquaculture (CIFA), At/Po. Kaushalyaganga, Bhubaneswar, Dist. Khurda

....Respondents

By Advocate :Mr. S.B.Jena, ASC

## O R D E R

MR. C.R.MOHAPATRA, MEMBER (A):-

There are three Applicants in this OA. All of them are working in CIFT at Burla as UDC, LDC and Assistant respectively. They have challenged the order under Annexure-4 dated 10.08.2007 transferring them to Cochin. The grounds of their challenge of the said order of transfer are that the posts in which they are working are neither technical nor research infrastructure categories. According to the Applicants the transfer is effected due to the closure of the Unit at Burla whereas as per clause (ii) of the policy guidelines only the staff belonging to scientific and technical personnel and research infrastructure from Burla centre can be transferred to Hoshangabad Centre in MP but the administrative and supporting staff at Burla centre are not liable to face such transfer. Rather they need to be adjusted/absorbed/redeployed at CIFA, Bhubaneswar. But in gross violation of the said policy guidelines, the Applicants have been transferred and posted to far away place which is not sustainable and needs to be quashed so far as the Applicants are concerned.

2. According to the Respondents due to ban on direct recruitment there are several vacancies existing at Cochin Office and as such considering the need of the staff at Cochin Office on the closure of the CIFT Burla Unit the Applicants being experienced holding transferable

post, they were transferred and posted to Cochin. In regard to the allegation of favouritism, it has been stated by the Respondents that there was no favouritism shown to any of the employees. Considering the need and personal difficulties some of the employees were posted at other places but as the services of the Applicants were very much needed at Cochin Office, they were transferred and posted which they ought not to have objected; especially for the reason of closure of the unit and transfer is an incidence of service. Accordingly, the Respondents have prayed for dismissal of this OA.

3. Learned Counsel appearing for the parties based on the pleadings led emphasis in support of their respective stand and having considered the rival contentions I have minutely perused the materials placed on record.

4. There can be no dispute which has also rightly not been disputed at the bar that in matters of transfer the scope of interference by this Tribunal is very limited. It has been held unequivocally by the Apex Court that unless the order of transfer is shown to be clearly arbitrary or is vitiated by *mala fides* or is made in violation of any operative guidelines or rules governing the transfer the Tribunal should not ordinarily interfere with it. One cannot claim as a matter of right to remain in the project when the project is closed or seek adjustment at his sweet will. As regards the claim that when others were adjusted in near by places, the

Applicants have been discriminated, the circumstances under which some of the persons were adjusted in near by places have been well explained by the Respondents. It is noted that equality clause contained in Article 14, in other words, will have no application where the persons are not similarly situated or when there is a valid classification based on a reasonable differentia. As regards the plea of *mala fide* it is held that such plea is usually raised by an interested party and therefore, court should not draw any conclusion unless allegations are substantiated beyond doubt which the Applicants failed to do so.

5. In the above view of the matter I find no merit in this OA. This OA is accordingly dismissed. No costs.

  
(C.R. MOHAPATRA)  
MEMBER (ADMN.)